

HR Weekly Podcast

06/05/2008

Today is June 5, 2008, and welcome to the HR Weekly Podcast from the State Office of Human Resources. Today's topic concerns legislation recently enacted and entitled the "South Carolina Illegal Immigration Reform Act."

For the past several years, immigration has nationally been a controversial issue. The United States Congress has introduced and debated several immigration bills; however, to date, a federal immigration bill has not been enacted. Consequently, a number of states have enacted immigration statutes. During this biennial session, the South Carolina General Assembly has considered several immigration bills as well. During last year's legislative session, 16 bills were introduced on the topic. None passed and all 16 were brought back this year. In addition, at least 19 new bills were introduced during this legislative session.

After considerable debate earlier this session, the immigration reform measures stalled. On May 28, 2008, the House gave approval to the "South Carolina Illegal Immigration Reform Act," or House Bill 4400. The Act has been touted as one of the most comprehensive in the nation. Governor Mark Sanford signed the bill into law on June 4, 2008.

According to the new Illegal Immigration Reform Act, all public employers in the State, beginning on or after January 1, 2009, will be required to verify that all new hires are authorized to work in the United States by participating in the federal work authorization program, currently known as E-Verify. The Act will also require contractors doing business with the State to either register and participate in E-Verify or to employ only workers who possess, or are eligible to possess, a valid South Carolina driver's license or identification card; or possess a driver's license or identification card from another state where the requirements are as strict as they are in South Carolina. Additionally, the Act will require all private employers in the State to verify that all new hires are authorized to work in the United States by meeting similar conditions as outlined above for contractors doing business with the State. The provisions of the Act applicable to contractors have a phased in approach for verifying new employees, depending on the size of the business, beginning on or after January 1, 2009, through January 1, 2010. Similarly, private employers in the state will also have a phased in approach for verifying new employees beginning on or after July 1, 2009, through July 1, 2010.

The following are some other provisions in the Act:

- Requires a 24-hour toll free hotline to be established by the Commission on Minority Affairs for the purpose of recording and reporting immigration law violations.
- Provides that individuals seeking certain public assistance benefits may be required to execute an affidavit of their lawful presence in the United States or have their eligibility verified through the Systematic Alien Verification of Entitlement, or SAVE, program.
- Enables the State Law Enforcement Division, or SLED, to negotiate and enter into a Memorandum of Understanding with the federal Department of Homeland Security, or DHS, to enforce immigration and customs laws.
- Makes it a felony to transport or harbor persons unlawfully present, with penalties up to five thousand dollars and five years imprisonment.
- Makes it unlawful for an illegal immigrant to "possess, purchase, offer to purchase, sell, lease, rent, barter, exchange, or transport" a firearm in this State.
- Provides that persons present unlawfully in the State are not entitled to state scholarships, grants, or financial aid.
- Provides that employers who violate the immigration law may be faced with fines ranging from \$100 to \$1000 per occurrence and be subjected to the revocation of their business license and specifically provides that for a first offense, the suspension ranges from 10-30 days; for a second offense, the suspension ranges from 30-60 days; and for a third offense, the suspension is up to five years.
- Provides that workers who are fired and subsequently replaced with illegal workers may be eligible to sue their former employer.

OHR will keep you informed about the status and impact of the State's immigration reform efforts. If you have questions, please contact your HR consultant at 803-737-0900.

Thank you.